

1 UNITED STATES DISTRICT COURT

2 DISTRICT OF NEVADA

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4 BRANDIN LEE JOHNSON,

5 Plaintiff,

6 vs.

7 STEVEN ROSE, Deputy DA,

8 Defendants.

2:20-cv-00776-APG-VCF

**REPORT AND RECOMMENDATION FOR
DISMISSAL**

On April 27, 2020, the Clerk docketed pro se plaintiff Brandin Lee Johnson complaint (ECF No. 1-1) noting that plaintiff submitted his complaint to this Court, but he did not pay the required filing fee or file an application to proceed in forma pauperis (ECF No. 1). The plaintiff is incarcerated. On April 29, 2020, the Clerk sent Johnson an advisory letter informing him that he must, “comply with our Local Rules of Practice for the U.S. District Court District of Nevada” and that if he wishes to proceed without paying a filing fee (in forma pauperis) he, “must complete an application to proceed in forma pauperis on this Court’s approved form.” (ECF No. 2 at 1). On June 2, 2020, the Court ordered that Johnson must either pay the filing fee or complete the in forma pauperis application by July 10, 2020. (ECF No. 3 at 2). Plaintiff filed a “response” to that order which the Court interpreted liberally as a motion for reconsideration: the Court extended the deadline for plaintiff to either pay the filing fee or file an in forma pauperis application until Thursday September 10, 2020. (ECF No. 5). The Court warned that, “[f]ailure to pay the filing fee or file the in forma pauperis application will result in dismissal.” (*Id.*) The Court also warned that pursuant to the local rules, “plaintiffs must immediately file written notification with the court of any change of address....**Failure to comply with this rule may result in dismissal of the action.**” (*Id.*) (emphasis in original).

Plaintiff has not paid the filing fee or filed an in forma pauperis application. Plaintiff has not

1 filed an objection to the Court's order. Plaintiff has also failed to maintain a current address with the
2 Court: notice of the Court's latest order was returned as undeliverable. (ECF No. 6). Plaintiff's case
3 should be dismissed.

4 Accordingly,

5 IT IS RECOMMENDED that this action be DISMISSED and Judgment entered.

6 **NOTICE**

7 Pursuant to Local Rules IB 3-1 and IB 3-2, a party may object to orders and reports and
8 recommendations issued by the magistrate judge. Objections must be in writing and filed with the Clerk
9 of the Court within fourteen days. LR IB 3-1, 3-2. The Supreme Court has held that the courts of appeal
10 may determine that an appeal has been waived due to the failure to file objections within the specified
11 time. *Thomas v. Arn*, 474 U.S. 140, 142 (1985). This circuit has also held that (1) failure to file
12 objections within the specified time and (2) failure to properly address and brief the objectionable issues
13 waives the right to appeal the District Court's order and/or appeal factual issues from the order of the
14 District Court. *Martinez v. Ylst*, 951 F.2d 1153, 1157 (9th Cir. 1991); *Britt v. Simi Valley United Sch.*
15 *Dist.*, 708 F.2d 452, 454 (9th Cir. 1983). Pursuant to LR IA 3-1, plaintiffs must immediately file written
16 notification with the court of any change of address. The notification must include proof of service upon
17 each opposing party's attorney, or upon the opposing party if the party is unrepresented by counsel.
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19 **Failure to comply with this rule may result in dismissal of the action.**

20 IT IS SO RECOMMENDED.

21 DATED this 29th day of September 2020.

22 
23

CAM FERENBACH
24 **UNITED STATES MAGISTRATE JUDGE**